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Sent: Monday, November 28, 2005 5:44 PM
To: ATR-Real Estate Workshop
Cc: jbourgoin@buyersadvantage4homes.com
Subject: the smoking gun

Attached you will find listing reports from my local association. The highlighted portion is what I would like to draw your attention too.

Recently, Richard A. Smith, Chairman & CEO, Real Estate Division of Cendant Corp. wrote a letter to The Wall Street Journal. I found it on Realtor.org (see attachment)

Within the letter is a statement; "It establishes a fair price for its services and then markets its products to the competition, sharing 50% or more of its fee to attract buyers." I find this statement to be untrue in my local market. It is common for the listing broker to offer 0% to discount brokers (also known as non-rep) and also 0% to buyer agents. The only business model that the members are looking to protect is transaction brokers. The local association's staff simply say don't show that listing.

Having been in the area now for over 15 years it is disturbing to see a letter such as Smith's be so far from reality.

The local associations decided some time ago to start separating commissions based upon levels of representation. This was done by committee and voted upon by the directors of the association. The members use this method to understand the policies of their competitors and before you know it business models such as the discounters and buyer agents are left with no inventory.

I have attached several other reports to show this ongoing effort by multiple members.

Check out my other public comments

Feel free to contact me at any time.

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09/30/2005

Cendant Corp.'s Letter to *The Wall Street Journal*

Richard A. Smith, chairman and CEO of Cendant Corp.'s Real Estate Services Division -- which includes the Coldwell Banker, Century 21, ERA and Sotheby's International Realty real estate franchise companies -- wrote a letter to *The Wall Street Journal* in response to an editorial by the media outlet about the lawsuit the U.S. Department of Justice filed on Sept. 8, 2005, against the NATIONAL ASSOCIATION OF REALTORS® for its Internet Listing Display (ILD) policy.

The letter, which was shared with NAR by Smith, was published by the *Journal* with the headline "REALTORS®: Totally Open and Totally Competitive" on Sept. 29, 2005:

Your Sept. 14 editorial, "Justice v. REALTORS®," concedes that REALTORS® actually do own their work product -- the listing, which is the agreement between a REALTOR® and a homeowner that describes the manner in which a home will be marketed and sold. The government should not get involved in dictating to REALTORS® and homeowners how those marketing plans should be implemented. The industry is already extremely open to competition. It establishes a fair price for its services and then markets its products to the competition, sharing 50% or more of its fee to attract buyers. And it voluntarily makes its inventory available to competitors, empowering them to avoid the costs and infrastructure to produce their own inventory.

When a REALTOR® presents herself to a prospective home seller and makes a listing presentation, she does so with a full understanding of the pricing pressures and competitive issues. The typical homeowner will invite listing presentations from multiple competitors.

Some REALTORS® and firms are obviously better than others, and they are able to demand and earn higher fees. Some choose to discount their fees, which may or may not be reflected in their service levels. In the end, the homeowner decides whether the price/value proposition meets his or her needs. Sales associates are almost always independent contractors, and all commission fees are negotiable. A highly efficient marketplace determines what is acceptable. Real estate commissions have been declining for over 10 years, and the national average is 5.1%.

Richard A. Smith
Chairman & CEO
Real Estate Services Division
Cendant Corp.
Parsippany, N.J.

[NAR Members: Access *The Wall Street Journal's* Sept. 14 editorial via ProQuest >](#)

[Non-Members: Access the article via the *WSJ* Web site \(requires subscription\) >](#)

[Read more about NAR's Internet Listing Display \(ILD\) policy >](#)

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